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RAILROADS — REGULATION OF RATES — STATUTORY PENALTY FOR VIOLATION OF STATE COMMISSION'S ORDER. — The Georgia Railroad Commission ordered the defendant railroad to cease demanding prepayment of freight from one connecting carrier and not from another, in order to avoid discrimination in favor of the longer route in violation of a state statute. The defendant took no steps to contest the order, and after two months the state brought suit for the penalty provided by the statute for violating the orders of the commission. *Held*, that the railroad may be held liable. *Wadley Southern R. Co. v. Georgia*, 235 U. S. 651.

The commission's order was found reasonable by the state supreme court. *Wadley Southern R. Co. v. Georgia*, 137 Ga. 497, 73 S. E. 741. In view of the discretion vested in the commission, this decision is unimpeachable, although on somewhat similar facts other courts have found that there was no discrimination. *Gamble-Robinson Commission Co. v. Chicago & N. W. R. Co.*, 168 Fed. 161. See 27 HARV. L. REV. 754. The question before the court in the principal case, therefore, was whether the order violated the Fourteenth Amendment. Such administrative orders are legislative in nature, though founded on judicial inquiry, and the parties affected are clearly entitled to review by the courts. *Prentiss v. Atlantic Coast Line Co.*, 211 U. S. 210; *Louisville & N. R. Co. v. Garrett*, 231 U. S. 313. Accordingly, statutes which provide penalties so enormous as to deter litigating the validity of the rates imposed, have been held invalid as denying the equal protection of the laws and as depriving the carrier of property without due process of law. *Ex parte Young*, 209 U. S. 123; *Willcox v. Consolidated Gas Co.*, 212 U. S. 19, 53. The courts have reasoned that the carrier would rather obey an invalid order than risk incurring the tremendous penalty which might be imposed after long litigation. *Missouri P. R. Co. v. Tucker*, 230 U. S. 340, 349. See *Ex parte Wood*, 155 Fed. 190, 198. Where the statute expressly provides, however, for a judicial determination of validity, the present tendency is to construe the statute as imposing no penalty except for violations subsequent to such determination. *Washington v. Oregon R. & Nav. Co.*, 68 Wash. 160, 167, 123 Pac. 3, 6. This result has also been reached even where there was no express provision. See *Coal Co. v. Conley*, 67 W. Va. 129, 159, 67 S. E. 613, 626. If, however, as in the present case, the railroad fails to exercise seasonably its right to judicial review, and the rate or order is regarded as valid, the penalty may then be imposed for violations from the outset.

SELF-DEFENSE — DUTY TO RETREAT — ATTACK BY ANOTHER INHABITANT IN ONE'S OWN HOME. — The defendant, being attacked by his son in the house where both resided, shot and killed his assailant without attempting to escape. *Held*, that the defendant is excused. *People v. Tomlins*, 107 N. E. 496 (N. Y.).

By the weight of authority, a man who is attacked must "retreat to the wall," if he can do so with safety, before killing his assailant. *Commonwealth v. Drum*, 58 Pa. St. 9; *Patterson v. State*, 146 Ala. 39, 41 So. 157. Cf. *Erwin v. State*, 29 Oh. St. 186; *Runyan v. State*, 57 Ind. 80. See 16 HARV. L. REV. 567. But one who is attacked in his own dwelling, or on his premises adjacent thereto, need not seek safety in flight, since a man's home is his "castle," and he should not be compelled to leave its shelter. *State v. Bissonnette*, 83 Conn. 261, 76 Atl. 288; *State v. Rulledge*, 135 Ia. 581, 113 N. W. 461. He need not even retreat to another part of the house. *Brinkley v. State*, 89 Ala. 34, 8 So. 22. It would seem wholly immaterial, furthermore, that the assailant lived under the same roof, and accordingly the rule has been applied to attacks by a joint tenant, or by a husband or wife. *Jones v. State*, 76 Ala. 8; *Hutcherson v. State*, 170 Ala. 29, 54 So. 119; *Watts v. State*, 177 Ala. 24, 59 So. 270. Guests are accorded this same privilege of resistance. *Jacobs v. State*, 146 Ala. 163, 42